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I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



AFTER RECORDING RETURN TO:
Margaret Hawker
City Recorder
City of Newport
169 SW Coast Highway
Newport, OR 97365

NO CHANGE IN TAX STATEMENTS

CITY OF NEWPORT ENCROACHMENT PERMIT AGREEMENT

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation, hereinafter (City), and Lincoln County Historical Society, hereinafter (Owner).

RECITALS

A. Owner owns the real property located at 333 SE Bay Blvd., Newport, Oregon 97365, (currently identified as Tax Lot 00500 of Lincoln County Assessor's Tax Map 11-11-08-AC and Tax Lot 08200 of Tax Map 11-11-08-AD), and legally described as the following:

Commencing at the most Southerly corner of Lot 5, Block 8, PLAND OF NEWPORT, as re-established in Lincoln County Survey No. 16,176 and begin on the Northerly Right-of-Way of Bay Blvd.; thence continuing along said ROW North 62°19'30" East, a distance of 125.58 feet to the True Point of Beginning; thence North 27°41'52" West to the Southerly ROW of SE 13th St., a distance of 156.03 feet; thence North 62°17'38" East, along said Southerly ROW, a distance of 12.83 feet; thence North 27°41'52" West, to the Southerly line of a tract as described in Book 147, Page 336, Lincoln County Deed Records, a distance of 69.95 feet; thence North 62°19'23" East, to the Southeasterly corner thereof, a distance of 42.76 feet; thence North 26°29'58" West, along the Easterly boundary of said tract, a distance of 183.13 feet; thence North 63°30'00" East, along the boundary of said tract, a distance of 13.64 feet; thence North 29°18'00" West to the Southwesterly corner of Parcel 2, Partition Plat 28-1990, a distance of 14.67 feet; thence North 58°57'12" East to the Southeasterly corner of Parcel 1, of said Partition Plat, a distance of 156.86 feet; thence North 88°45'00" East, along the Southerly boundary of a tract of land as described in Book 180, Page 147, Lincoln County Deed Records to the Westerly line of the Plat of OLSSON'S ADDITION TO NEWPORT, a distance of 143.22 feet; thence South 00°11'09" East, along said Westerly line to the Northeasterly corner of the Smuggler's Cove Resort No. 1 tract, as described in Microfilm 195-2236, Lincoln County Film Records, a distance of 153.84 feet; thence South 89°48'51" West, along the Northerly line of said tract, a distance of 46.98 feet; thence South 78°58'53" West, along said Northerly line, a distance of 6.93 feet; thence North 10°50'52" West, a distance of 44.92 feet; thence South 81°26'14" West, a distance of 1.89 feet; thence South 08°11'02" East, a distance of 0.92 feet; thence South 80°12'47" West, a distance of 6.27 feet; thence North 08°37'46" West, a distance of 2.23 feet; thence South 79°30'13" West, a distance of 19.27 feet; thence South 27°39'11" West, a distance of 15.37 feet; thence South 37°35'31" East, a distance of 1.68 feet; thence South 45°30'54" West, a distance of 2.85 feet; thence South 27°05'45" East to the Northwesterly line of said "Smuggler's Cove Resort No. 1" tract, a distance of 56.99 feet; thence South 14°04'48" West, along said Northwesterly line, a distance of 28.92 feet; thence South 34°03'01" East, along the Westerly line of said tract, a distance of 78.61 feet; thence South 16°09'07" East, along said Westerly line, a distance of 36.33 feet; thence North 89°48'51" East to the Westerly ROW of SE 5th St., a distance of 25.00 feet; thence South 00°11'09" East along said ROW to the most Northerly corner of Block 1, PLAT OF OLSSON'S 2ND ADDITION TO NEWPORT, a distance of 58.00 feet; thence North 80°46'09" East, along the Northerly line of said Block 1 to the Northerly ROW of Bay Blvd., a distance of 31.72 feet; thence South 62°19'30" West, along said Bay Blvd., a distance of 216.07 feet to the point of beginning. Said tract contains 2.01 acres more or less.

B. Owner desires to use a portion of the undeveloped SE 5th street right-of-way adjacent to their property. Planned improvements will include modifications to an existing retaining wall, a water feature, interpretive signage, lighting, an anchor, and the salvaged propeller from the USS Pasley, as depicted in Exhibits A and B. The proposed improvements are intended to enhance the entrance to the Pacific Maritime Heritage Center and improve the pedestrian and tourism environment along Bay Blvd.

PERMIT AGREEMENT TERMS

1. Benefited Property: The rights granted by this permit agreement are appurtenant to Owner's Property. Owner warrants that Owner has fee simple title or sufficient interest to Owner's Property to allow Owner to bind current and future owners of Owner's Property.
2. Permitted Encroachments: City authorizes Owner to use that portion of right-of-way depicted in Exhibits A and B for improvements to include removal of part of the western-most wall, cutting the height of an existing wall to 9.5 feet, installation of a stone façade over the existing wall, installation of a stone cap at the top of the wall, placement of a large prop salvaged from the USS Pasley, placement of an anchor, lighting improvements, a potential water feature, interpretive signage, and PMHC signage.
3. Safety: Owner agrees to maintain the permitted encroachments in good condition so that they do not become a nuisance or hazard. Owner agrees to maintain and repair only those encroachments authorized by this permit.
4. Indemnity. Owner hereby agrees to defend and indemnify City and its officials and employees as to any loss, liability, claim, or demand relating to this permit or the permitted encroachment.
5. Termination: This permit shall be terminated in the event of the destruction, removal, major reconstruction, major remodeling, or abandonment of the permitted encroachments. This Permit may be revoked at any time on written notice to Owner, for any reason.
6. Notice: Any notice relating to this Permit shall be effective 48 hours after mailing. Notices shall be sent to the following addresses, unless another address is provided to the other party by written notice.

CITY:	OWNER(S):
City of Newport Attn: City Manager 169 SW Coast Highway Newport OR 97365	Lincoln County Historical Society 545 SW 9 th St Newport OR 97365
7. Removal of Improvements: Within five days of the termination of this permit, Owner or Owner's successor in interest, shall commence to remove the permitted encroachments and shall complete removal and restoration of the rights-of-way within 30 days.
8. Lien: City may impose a lien on Owner's property to secure performance of Owner's obligations under this permit.
9. Advice of Counsel: The parties hereto acknowledge and understand that this Encroachment Permit has been prepared by the City. Owner is aware that this permit contains substantial, binding obligations, and that Owner has the right to and should consult with Owner's attorney regarding any questions respecting the meaning or legal effect of this permit.

10. Attorneys' Fees: In the event that either party shall bring suit or action to enforce any term or provision hereof, the prevailing party shall be entitled to its reasonable attorneys' fees, including any appeal.

11. Insurance: Owner shall maintain liability insurance respecting the permitted encroachments and include the City as a named insured. This provision is for the benefit of the City and Owner and there are no intended third party beneficiaries to this provision or any other portion of this Encroachment Permit Agreement. City will have no liability or responsibility for failure to enforce this provision.

12. Binding Upon Future Owners: The terms and obligations of this Encroachment Permit Agreement shall run with Owner's Property and shall be binding on, and for the benefit of, all future owners of Owner's Property, until terminated.

CITY OF NEWPORT:

BY



Spencer Nebel, City Manager

DATE: 05-12-16

OWNER(S):



Steve Wyatt, Executive Director
Lincoln County Historical Society

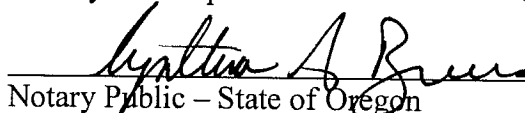
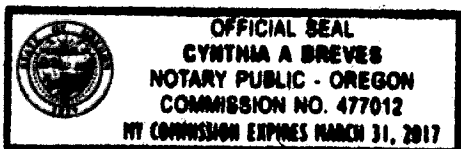
DATE: 24 May 2016

STATE OF OREGON)

) ss.

County of Lincoln)

This instrument was acknowledged before me on this 12 day of May, 2016, by Spencer Nebel as City Manager of the City of Newport.

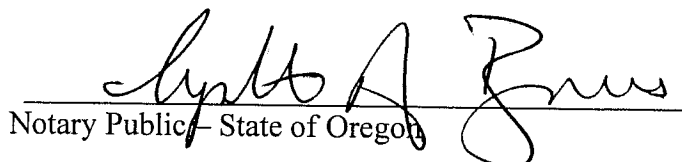
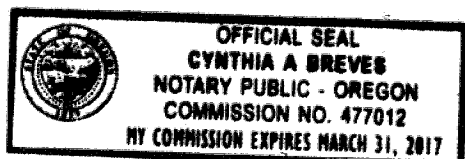

Notary Public - State of Oregon

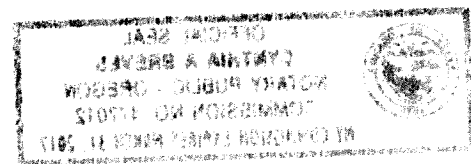
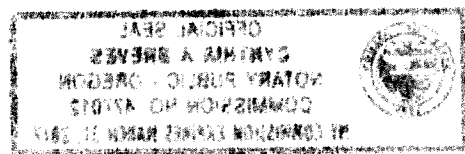
STATE OF OREGON)

) ss.

County of Lincoln)

This instrument was acknowledged before me this 24 day of May, 2016, by Steve Wyatt as Executive Director of the Lincoln County Historical Society.


Notary Public - State of Oregon



Hand-drawn site plan for a park area, labeled "EXHIBIT B". The plan shows a "STREAM" flowing through the center. To the left is a "CONC FTNG" (concrete foundation) with a "STEP DOWN" and a "CONC. SIDEWALK". A "NEW LIGHT POLE ON CONC PEDESTAL" is located near the sidewalk. The plan includes various dimensions: 2'-0", 17'-2", 2'-0", 2'-0", 3'-3", 25'-2", 24'-9", 10'-9", 4'-0", 2'-4", 5'-0". It also shows "EXIST 8" CONC WALL", "INSIDE CORNER CONC WALL", "START OF SIGNAGE", "END OF SIGNAGE", "Turf X", and "INTERPRETIVE SIGN". A north arrow is present. The plan is labeled "EXHIBIT B" in the top right corner.

EXHIBIT "B"